


State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment I

LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for 2009 LRB-4430 (For: Rep. Seidel)


has been transferred to the drafting file for

2011 LRB-0235 (For: Rep. Seidel)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 10/07/2010 (Per: PJK)

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2009 DRAFTING REQUEST

Bill

Received: **02/25/2010**

Received By: **pkahler**

Wanted: **As time permits**

Companion to LRB:

For: **Donna Seidel (608) 266-0654**

By/Representing: **Natalie Verette**

May Contact:

Drafter: **pkahler**

Subject: **Dom. Rel. - paternity**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Seidel@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Administrative paternity establishment

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 02/26/2010	jdye 03/05/2010		_____			S&L
/P1			jfrantze 03/05/2010	_____	mbarman 03/05/2010		S&L
/P2	pkahler 03/12/2010	jdye 03/15/2010	rschluet 03/16/2010	_____	cduerst 03/16/2010		S&L
/P3	pkahler 03/22/2010	jdye 03/24/2010	phenry 03/24/2010	_____	sbasford 03/24/2010		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	pkahler 03/26/2010	bkraft 03/29/2010	mduchek 03/29/2010	_____	mbarman 03/29/2010		

FE Sent For:

<END>

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

1 bjk 3/29/29

~~1 AG~~
3/2/29 Km 3/24/29

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Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Donna Seidel (608) 266-0654

By/Representing: Natalie Verette

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Dom. Rel. - paternity

Extra Copies:

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/P1		1/2 3/15 jld	jfrantz 03/05/2010	3/10 phl	mbarman 03/05/2010		

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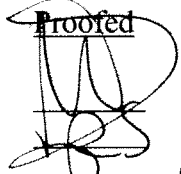
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FE Sent For:

<END>

Kahler, Pam

From: Verette, Natalie
Sent: Wednesday, February 24, 2010 4:45 PM
To: Kahler, Pam
Subject: Administrative Paternity Establishment

Attachments: Memo from Connie Chesnik.pdf

Hi Pam,

I'm attaching a memo from Connie Chesnik that gives some background and provides drafting instructions. As I mentioned on the phone, you have Rep. Seidel's permission to speak directly with Connie.

Thank you very much,
Natalie

Natalie Verette
Legislative Assistant
Office of State Representative Donna Seidel
Assistant Majority Leader
85th Assembly District

State Capitol, 218 North
P.O. Box 8953
Madison, WI 53708

608.266.0654
888.534.0085 (toll-free)
natalie.verette@legis.wisconsin.gov



Memo from Connie
Chesnik.pdf (...)

MEMORANDUM**DEPARTMENT OF CHILDREN AND FAMILIES**

To: Reggie Bicha
Angela Russell
Kimmie Collins

From: Connie M. Chesnik
Attorney

Date: December 16, 2009

Re: **ADMINISTRATIVE PATERNITY ESTABLISHMENT**

Problem:

- Should Wisconsin statutes be amended to permit an administrative process for paternity establishment that still affords all litigants full due process?
- Should Wisconsin statutes be amended to require genetic testing in all paternity actions?

Summary:

The current statutory procedure for determination of paternity was created when the court's role was to hear the mother and potential father testify and make a determination based upon credibility. All disputed cases are now resolved by genetic testing which can establish paternity to a 99.9% degree of probability. In addition, the process of having paternity adjudicated in court is time consuming and cumbersome. The child support program is subject to federal timelines for the establishment of paternity that are difficult to meet given the constraints of the current system. The availability of DNA testing has eliminated much of the role that the courts used to play in determining paternity.

Current administrative paternity processes:

Although, Wisconsin already has the ability to establish paternity without a court hearing, it requires both the mother and the potential father to sign, and have notarized, a Voluntary Paternity Acknowledgment (VPA) form pursuant to Sec. 767.805 Wis. Stats. This process is successful only when the parents:

- Agree as to who the father is;
- Know how to contact each other;
- Get along/cooperate/communicate with each other well enough to both sign a VPA) form;
- Proactively send in the form in a timely manner; and
- Pay the required fee.

Although the parties are advised that use of the VPA is not appropriate in cases where the mother may have had intercourse with more than one male during the conceptive period, we are aware of many cases in which the form is filed, and a determination made, sometimes years later, that the man who signed the form is not the biological father.

Current Court Action:

The Child Support Agency (CSA) (or any other party to the case) must file a paternity action under Sec. 767.80 Wis. Stats. The potential father must be served at least 30 days prior to the initial hearing. This generally necessitates setting the initial hearing date out at least 60 days to ensure service of process. At the initial hearing the potential father is notified of his rights including the right to an attorney, to a jury trial and to genetic testing. Frequently, this is the point at which a potential father requests genetic tests. Once genetic samples have been given, results generally take 2-3 weeks and are then mailed to the parties. At the next court hearing, the vast majority of fathers (over 95%) admit paternity if genetic test results indicate a probability of paternity of 99% or greater (the level at which Sec. 767.84 creates a rebuttable presumption of paternity.) If genetic tests indicate that the potential father is not the biological father, the whole process starts again from the beginning. The appearance of the mother is required at each court hearing and she is the only parent supporting the child until paternity is adjudicated. Numerous court hearings can result in loss of wages for many mothers.

The proposed legislation would streamline the process without making large wholesale changes to the existing laws related to paternity establishment. Specifically, under the proposed legislation:

- Genetic testing would be mandatory in most cases
- Penalties associated with failure to comply with administrative subpoenas would be increased
- Support actions could be commenced based on the results of genetic tests similar to what is currently done in cases where a voluntary acknowledgment of paternity is filed.

The process being proposed would preserve all of the due process currently afforded to parties in paternity actions.

Legislative History:

None

Drafting Instructions:

1. Amend. S.767.84(1)(a) to require the child, mother, and any male for whom there is probable cause to believe they had intercourse with the mother during the conceptive period to submit to genetic tests. Provide that the requirement for testing does not apply to default judgments under s. 767.893 or where the

*Support establishment - 75% in 6 mos
90% in 12 mos.*

respondent is deceased and genetic material may not be obtained without undue hardship under s.767.865(2).

2. Amend s.49.22 (2m)(b) to authorize a fine or forfeiture not to exceed \$300 for failure to comply with an administrative subpoena for genetic testing under that section without good cause. Authorize the award to a moving party in a subsequent court action.
3. Create a new section in Chapter 767 authorizing the commencement of a support action based on the results of genetic tests establishing a probability of paternity greater than 99% similar to the action authorized under s.767.805 when a VPA is filed. Provide the noncustodial parent with an opportunity to object.

ch
X refs to
767.805